policies for preservation of agricultural lands, urban growth, provision of public facilities, and protection of significant natural resource, scenic, historic, and architectural areas, the objectives, principles, and standards set forth in Chapter IX of the Waukesha County development plan report provide the policy framework necessary to include in a new agricultural land preservation plan. With respect to Subsection (b), regarding the mapping of agricultural areas to be preserved, environmental, natural resource and open space areas, and transition areas, Map 92 identifies such areas and may be considered a point of departure for the preparation of a new County agricultural land preservation plan.

As shown on Map 92, areas identified for agricultural land preservation encompass about 17 square miles, or 3 percent of the total area of the County, while areas identified for transition to other uses, both urban and rural, encompass about 131 square miles, or about 23 percent of the total area of the County. Under the 1984 Waukesha County agricultural land preservation plan, agricultural land preservation areas encompassed about 170 square miles, while transition lands encompassed about 26 square miles.

The adoption of the Waukesha County development plan, as prepared under Section 59.97(3) of the Wisconsin Statutes, is not intended to constitute adoption of a new Waukesha County agricultural land preservation plan pursuant to the requirements set forth in Section 91.55 of the Statutes. Consequently, those owners of land located within the agricultural preservation or transition areas indicated on Map 92, and who otherwise meet the eligibility requirements of the Wisconsin Farmland Preservation Program, should continue to be eligible to receive income-tax credits under that program.

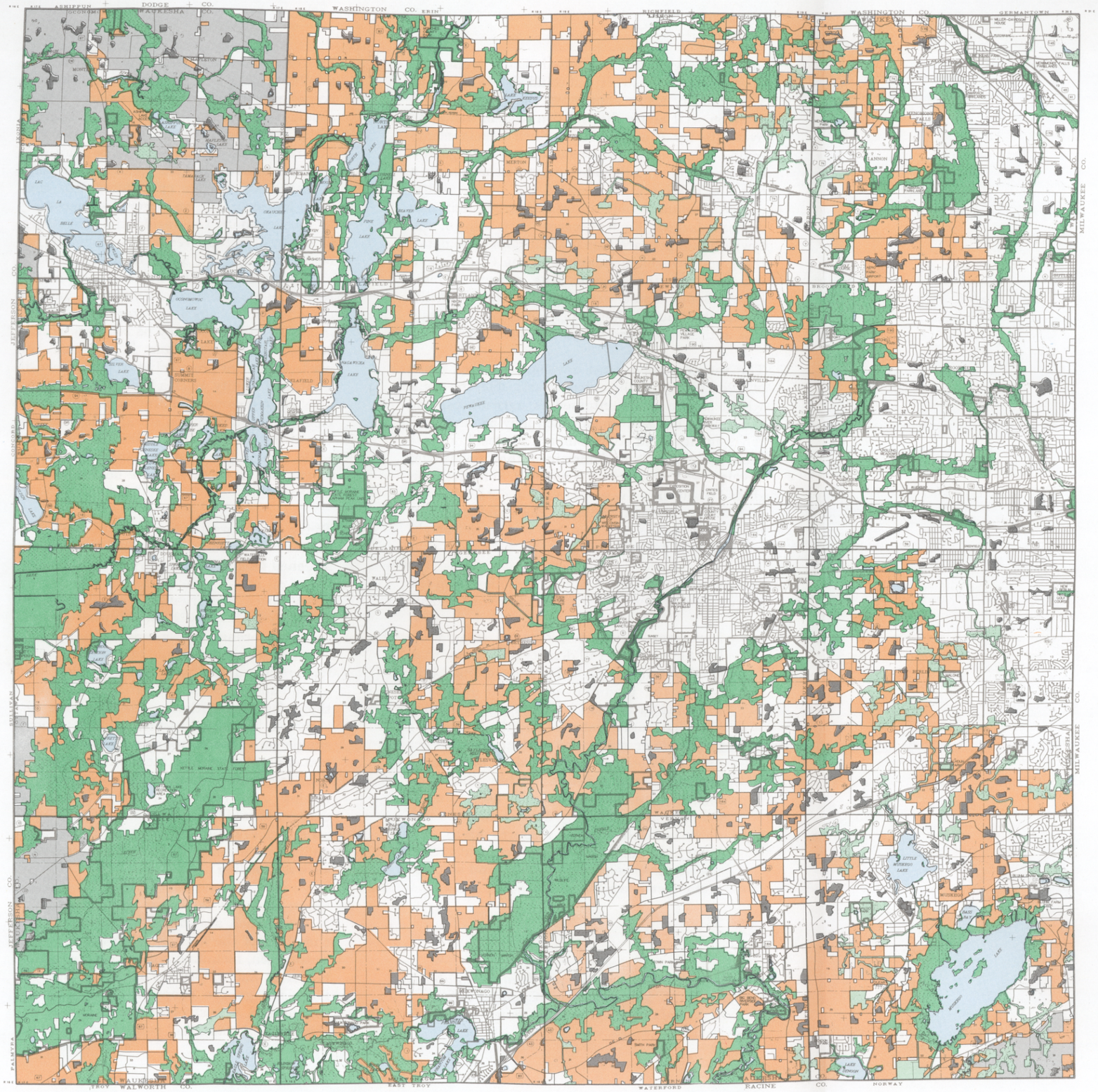
Use-Value Assessments: State legislation enacted in 1995 freezes the assessed value of agricultural land at current levels through 1996. After 1996, assessed values are to be reduced to "use" values over a ten-year period. Under this legislation, all agricultural land is to be assessed at use-value, regardless of zoning or market sales of land. Landowners who sell their land after owning the land for less than five years will be required to pay a penalty to the Wisconsin Department of Revenue in an amount equal to five percent of the difference between the sale price and the use-value of the land during the last year of ownership. Thus, while the new program may be expected to provide substantial property-tax relief to all owners of farmland, it will do so without attaching any significant restrictions to the land.

A Disclaimer: While both tax incentive programs may be useful in helping to preserve prime agricultural land in the short term, neither program should be viewed as effective in the long term in Waukesha County, given a continuing active urban land market. A stable political commitment to sound zoning and implementation of an adopted land use plan is the only way to achieve the objective of preserving prime agricultural land.

Rural Area Planning and Zoning

Successful implementation of the recommended County land use plan depends to a large extent upon future efforts to maintain the overall rural character of lands in the planned rural development areas, particularly the areas identified as "rural-density residential and other agricultural lands," shown in white on the recommended plan map. Previous sections of this chapter have noted the additional planning efforts needed for, and the appropriate application of land use controls to, such areas. This section provides more detailed recommendations to facilitate the implementation of the County land use plan as it pertains to the rural development areas. The Regional Planning Commission has initiated work on the preparation of a local planning guide for the use of cluster development in rural areas. Expected to be completed in 1996, this planning guide will include an in-depth description of the cluster design alternative and the means for its implementation in rural areas.

Rural Area Planning: Under the recommended County land use plan, rural development areas have been identified in the Towns of Eagle, Delafield, Genesee, Lisbon, Merton, Mukwonago, Ottawa, Pewaukee, Summit, Vernon, and Waukesha; the Cities of Muskego and New Berlin; and the Villages of Menomonee Falls and Merton (see Map 91). The identified rural development areas currently consist primarily of nonprime agricultural lands, environmentally sensitive lands, and scattered unsewered residential development. The County land use plan recommends that new development in these areas be limited primarily to very low-density residential development. The plan encourages the use of residential cluster designs at an overall density of one dwelling unit per five acres, with dwelling units developed in clusters surrounded by agricultural and other open space. Such clustered dwelling units



Map 92

AGRICULTURAL PRESERVATION AND TRANSITION AREAS UNDER THE LAND USE ELEMENT OF THE RECOMMENDED WAUKESHA COUNTY DEVELOPMENT PLAN

LEGEND

- PRIME AGRICULTURAL LAND IDENTIFIED FOR PRESERVATION UNDER THE RECOMMENDED LAND USE ELEMENT OF THE WAUKESHA COUNTY DEVELOPMENT PLAN
- PRIME AGRICULTURAL LAND IDENTIFIED FOR PRESERVATION OR TRANSITION IN THE 1984 WAUKESHA COUNTY AGRICULTURAL LAND PRESERVATION PLAN AND RECOMMENDED FOR TRANSITION TO OTHER USES UNDER THE RECOMMENDED LAND USE ELEMENT OF THE WAUKESHA COUNTY DEVELOPMENT PLAN
- PRIMARY ENVIRONMENTAL CORRIDOR
- SECONDARY ENVIRONMENTAL CORRIDOR
- ISOLATED NATURAL RESOURCE AREA
- SURFACE WATER

GRAPHIC SCALE

0 2 MILES

0 4000 8000 12000 FEET

Source: SEWRPC.

could be served by individual onsite wells and sewage disposal systems, but could also be served by a community water supply system consisting of a common well and a distribution system including hydrants for fire protection. Such developments could also be served by a community sewerage system consisting of collection sewers discharging to a common holding tank operated as a public utility, or to a common soil absorption treatment and disposal facility. Each concerned city, village, and town should prepare plans which refine and detail the general recommendations of the County land use plan for these areas. The concerned town governments should work in cooperation with the Waukesha County Department of Parks and Land Use in these planning efforts for rural areas.

The recommended rural development area plans should identify, to the extent practicable, the areas which should be maintained in agricultural and other open use and areas which may be developed for residential and other compatible uses. For those areas in which it is determined that residential development will be accommodated, consideration should be given to the preparation of detailed street and lot layout plans similar to block and lot layout plans prepared as part of urban residential neighborhood unit development plans.

The following guidelines should be followed in the preparation of development plans for rural areas:

- New residential development should be limited to an overall density of no more than one dwelling unit per five acres of open land within the planning area. This density is intended to provide a basis for determining the maximum number of additional dwelling units which should be accommodated. The number should be calculated by dividing by five the total acreage within the rural planning area currently in open use, including primary and secondary environmental corridors, isolated natural resource areas, and other open lands to be preserved, and excluding the acreage of major public land holdings and major lakes.[18]

- To the maximum extent practicable, the dwelling units which may be accommodated in accordance with the overall five-acre density should be developed in residential clusters in which dwelling units are grouped together. The residential clusters should be limited in size, surrounded by open space, and, as may be necessary, contain open space. The clustered lots should be no larger than necessary to accommodate the residential structures, driveways, and desired yards, including, as necessary, space for an onsite soil absorption sewage treatment and disposal system and replacement system area. This can usually be accomplished on lots no greater than one acre in size. The lot size may be reduced when a sewage collection system is installed and waste treatment provided at a common waste treatment facility. Such a facility could consist of a large common holding tank or a large common soil absorption sewage disposal system operated as a public utility. Water supply could also be provided by distribution mains served by a common well operated as a public utility.

- To the extent practicable, residential clusters should be located in areas which are visually screened from public roadways, so that existing rural open space vistas are maintained. Open space preservation areas should be delineated first, with residential clusters designed around those areas. Designs for residential clusters should be integrated with topographic and other natural features, taking full advantage of the settings provided by those features without causing undue disturbance. Clustered residential development should be buffered from nearby agricultural and mineral extraction lands, as appropriate, so as to minimize conflicts between farming or mining and residential uses. Residential clusters should be located in areas covered by soils that are suitable for such development and which are not subject to special hazards, such as flooding.

- Other intensive land uses should be limited to uses which are consistent with the rural character of the area or otherwise essential to the area, including, among others, animal hospitals and veterinary clinics, riding stables, and garden shops. In general, office, commercial, industrial and storage uses and the types of retail and service uses that are

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[18]*Major public landholdings are defined as publicly owned sites of 50 acres or more. Major lakes are defined as lakes with a surface water area of 50 acres or more.*

provided as a matter of convenience and necessity in urban residential neighborhoods should not be considered appropriate within rural planning areas.

- Lands within the rural development areas which are not designated for residential or other compatible intensive use should be retained in general agricultural and other open space use. Potential agricultural uses include traditional farming activity, hobby farms, and community supported agriculture.[19] Land not used for farming should be kept free of development, except for recreational trail facilities and access facilities for the benefit of those who own an interest in the land.

The application of the aforementioned guidelines in the preparation of rural area plans is illustrated in Appendix E.

An important consideration with respect to rural area cluster developments is the matter of ownership of the open space preserved, for which a number of options exist. The lands can be held in common ownership by a homeowners association comprised of individuals who purchase the clustered residential lots, can be retained by the original landowner, or can be sold or dedicated to a conservation organization or to a local unit of government. The owner or owners may choose to own and manage the land or to lease the land to others with approval from the homeowners association. For example, land preserved could be leased to a nearby farmer who may wish to include the land in an existing farm operation. Regardless of the ownership arrangement, legal restrictions must be established to ensure that the land is permanently maintained in open space.

Rural Area Zoning: County and local zoning ordinances represent the most important single measure available to effectuate land use plan recommendations for rural areas. In order effectively to implement a rural area land use plan, a zoning ordinance must establish rural area density regulations consistent with the aforereferenced guidelines; must include provisions which accommodate, or even mandate, clustered residential development or lot averaging in rural areas; and must require the use of legal restrictions, such as deed restrictions or conservation easements, to ensure the preservation of lands which are to be permanently preserved in agricultural or other open space use. In addition, the inclusion in local zoning ordinances of provisions which accommodate the transfer of development rights should be considered. Each of these provisions is described below.

Density Provisions: Zoning of lands in rural development areas should provide for implementation of the aforereferenced planning standard of no more than one dwelling unit per five acres of land, applied to the overall rural development area in the manner previously described. Thus, the combination of zoning districts within the rural development area should result in no more than one additional dwelling unit per five acres of the remaining open land area, excluding major public landholdings and major lakes.

Because the existing zoning regulations within the County have generally been in place for many years, it is important to evaluate existing zoning district regulations in rural areas in the light of the rural development density proposed under the recommended County land use plan. To this end, a determination was made of the approximate residential holding capacity under recommended County land use plan conditions and under existing zoning for each rural development area. Lands within the rural development area boundaries that are already developed for intensive residential development or other urban use, or otherwise committed to such use, were excluded from the analysis.

For purposes of this analysis, the total number of dwelling units which may be accommodated in accordance with the recommended County land use plan was determined by dividing by five the total

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[19]*Community supported agriculture (CSA) involves a close relationship between farming operations and households in a local market area that become direct consumers of products from the farms. Under a CSA arrangement, households in the vicinity of a farm operation pay an annual subscription fee for the right to share in the produce, typically fruits and vegetables, which are produced on the farm over the produce to participating households; may provide a good return to the farmer and provide additional stability to farming operations, since the risks of a poor growing season are shared by the participating households; and provide an alternative form of agriculture, particularly on smaller farms where dairy farming and large-scale cash grain operations are no longer feasible.*

Table 139

COMPARISON BETWEEN THE NUMBER OF DWELLING UNITS ENVISIONED UNDER THE WAUKESHA COUNTY LAND USE PLAN AND THE NUMBER OF DWELLING UNITS AUTHORIZED UNDER EXISTING ZONING IN RURAL DEVELOPMENT AREAS IN THE COUNTY

Name of Rural Development Area[a]	Gross Area (acres)	Conditions under County Land Use Plan					Conditions under Existing Zoning		
		Subtractions from Gross Area			Area Used to Determine the Number of Rural Residential Dwelling Units to be Accommodated[d] (acres)	Approximate Maximum Number of Dwelling Units Able to Be Accommodated[e]	Predominant Minimum Parcel Size or Maximum Density Requirement under Existing Zoning[f]	Approximate Number of Dwelling Units Able to Be Accommodated under Existing Zoning[g]	Density[h] (acres per dwelling unit)
		Major Public Landholdings[b] (acres)	Major Lakes[c]	Existing and Committed Urban Development (acres)					
Delafield	6,921	638	--	1,373	4,910	982	3	1,030	4.8
Eagle	20,051	6,848	311	2,983	9,909	1,982	3	1,757	5.6
Genesee	19,576	282	--	6,992	12,302	2,460	3	1,791	6.9
Lisbon	13,746	107	--	2,247	11,392	2,278	1	5,259	2.2
Menomonee Falls	5,217	160	--	908	4,149	830	3	808	5.1
Merton	11,545	343	237	2,304	8,661	1,732	1, 3, and 5	2,524	3.4
Mukwonago	17,366	1,856	105	3,390	12,015	2,403	3	2,498	4.8
Muskego	9,007	--	--	1,062	7,945	1,589	5	733	10.8
New Berlin	10,954	--	--	4,248	6,706	1,341	5	698	9.6
Ottawa	21,253	3,606	254	3,283	14,110	2,822	3	2,065	6.8
Pewaukee	1,279	--	--	243	1,036	207	5	122	8.5
Summit	12,325	--	492	1,800	10,033	2,007	3	1,753	5.7
Vernon-Big Bend	21,731	1,572	--	6,258	13,901	2,780	5 and 10	1,230	11.3
Waukesha	3,030	585	--	81	2,364	473	5	181	13.1

[a] *The rural development area boundaries used in this analysis are shown on Map 92.*

[b] *Publicly owned sites which are 50 acres or greater in area.*

[c] *A lake having 50 acres or more of surface water.*

[d] *Calculated as the gross acreage of the rural development area less the acreage of major public land holdings, major lakes, and existing or committed urban development. It includes rural residential and other agricultural lands, other open lands to be preserved, and primary and secondary environmental corridors and isolated natural resource areas, excluding major public land holdings and major lakes.*

[e] *Calculated as the area considered for rural residential development divided by 5.*

[f] *The minimum parcel size or maximum density requirement varies within most rural development areas, in some cases being restricted to one dwelling unit per 10 acres or one dwelling unit per 35 acres. In these cases, however, it was assumed for purposes of this analysis that the areas concerned would eventually be rezoned for smaller lot sizes or higher densities, consistent with the most common suburban or rural estate zoning districts being applied within the respective rural development areas.*

[g] *Calculated as the area of land currently zoned for additional residential development divided by the gross acreage requirements of the specified parcel size (i.e., 1.23 acres for one-acre parcels, 3.6 for three-acre parcels, 5.7 for five-acre parcels, and 10 for 10-acre parcels.*

[h] *Calculated as the area which may be devoted to rural residential development under the County land use plan divided by the number of dwelling units able to be accommodated under existing zoning.*

Source: SEWRPC.

acreage of the rural development area minus the acreage of major public landholdings, the acreage of major lakes, and the acreage of land already developed, or committed to be developed, for urban use. The total number of housing units which may be accommodated under existing zoning was determined by identifying all lands where existing zoning allows residential development, again excluding areas already developed or committed to intensive urban use, and applying the predominant minimum parcel size or maximum density requirement established under existing zoning. The results of this analysis are summarized in Table 139. As indicated in Table 139, the minimum lot size allowed under the existing residential zoning in undeveloped portions of the rural development areas generally ranges from one to ten acres. By far, the most common minimum lot size requirement established in rural areas under rural zoning existing in 1995 within the County was three acres.

As further indicated in Table 139, the total number of dwelling units allowed under existing zoning is significantly greater than the number of dwelling units envisioned under the County land use plan in only two rural development areas, those being

within the Towns of Lisbon and Merton. This indicates that in most civil divisions, the overall rural area density recommended under the County land use plan, no more than one dwelling unit per five acres of existing open land, could be met under the existing zoning. In most civil divisions, then, the overall rural area density recommendations of the County land use plan may be met without down-zoning or without decreasing the density permitted under existing zoning. The exceptions to this would be in the Lisbon and Merton areas, where, discounting those areas already developed for, or committed to, intensive residential development, existing zoning would result in overall densities of 2.2 and 3.4 acres per dwelling unit, respectively. Some down-zoning would be required in order to meet the rural area density standard recommended under the County land use plan in these two towns.

Clustering Provisions: While the overall rural area density recommendations of the County land use plan may be achieved under existing zoning within most civil divisions, zoning ordinance changes will nevertheless be required to provide for the clustering of residential development in rural areas as recommended under the plan. As already noted, the County land use plan envisions that dwelling units in rural development areas would be accommodated on relatively small lots in clusters surrounded by open space, as well as on very large-lot "country estates."

Zoning ordinances that facilitate clustered residential development can be drafted many different ways; thus communities have much flexibility to help achieve community open space and rural preservation objectives through zoning. In residential cluster zoning regulations, three basic elements must typically be balanced: development density, lot size, and the amount of required open space. Provided that a workable balance is maintained between these three elements, a community can, for example, opt for the greatest amount of open space achievable, or can limit the minimum lot size, or can put a cap on density. Whichever choice or limit is selected first, the other two elements can be adjusted to accommodate that choice. It should also be noted that residential clustering may be permitted within a basic zoning district by conditional use or by right.

As an example, clustering could be established as a conditional use in a basic rural residential district that requires a minimum parcel size of three acres. With a lot size reduction from 3 acres to 1 acre, the dwelling units could be concentrated on a portion of the property to be developed, while maintaining the rest in open use. Under the conditional use provisions, the number of clustered dwelling units permitted would be the same as the number which would be permitted if the entire parcel were to be divided, using a more conventional approach, into uniformly sized lots. Care must be taken, however, to ensure that as much permanent open space as possible is achieved in the design. The required amount of open space to be preserved in a residential cluster development may be stipulated in the zoning ordinance as a percentage of the total parcel. With a 65 percent open space requirement, for example, 65 acres would be required to be set aside as open space on a 100-acre development parcel. When the required amount of open space is not stipulated, the amount of open space is the result of what remains after the lot sizes have been reduced; thus the amount of open space can vary from one parcel to another. It would be necessary, when not stipulating the amount of open space required, to stipulate a maximum, as well as a minimum, lot size to ensure that enough open space results. A minimum of 65 percent of the area of an individual parcel developed with a rural cluster design technique should be preserved in permanent open space; desirably that proportion should approach 85 percent. The higher the proportion of the site kept in open space, the greater the chances of preserving a true rural appearance over the landscape.

In order to facilitate implementation of the cluster design concept and achieve preservation of the maximum amount of open space remaining in the rural development areas of the County, it may be necessary to provide incentives to developers in the form of residential-lot-density bonuses. Such incentives may be required particularly if cluster development is to be served with community sewage treatment and disposal systems, which would be operated as public utilities by a town sanitary or utility district pursuant to Section 60.72 or Section 60.23 of the Wisconsin Statutes.

There are three basic alternatives for community sewage treatment and disposal systems in rural areas: 1) collection and conveyance to a large community holding tank, 2) collection and conveyance to a large community soil absorption sewage treatment and disposal system, and 3) collection and conveyance to a sewage treatment plant via trunk sewer. Costs associated with the first two basic alternatives, along with comparable costs for

Table 140

COST SUMMARY FOR ALTERNATIVE SEWERAGE SYSTEM PLANS ON A SAMPLE 100-ACRE SITE

Cost Components	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Alternative 5	Alternative 6
	Clustered Development with 28 0.5-Acre Lots[a] and Community Sewage Treatment and Disposal System[c]	Clustered Development with 33 0.5-Acre Lots[b] and Community Sewage Treatment and Disposal System[c]	Clustered Development with 28 0.5-Acre Lots[a] and Common Holding Tank[d]	Clustered Development with 33 0.5-Acre Lots[b] and Common Holding Tank[d]	Development with 28 3.0-Acre Lots[a] and Community Sewage Treatment and Disposal System[c]	Development with 28 3.0-Acre Lots[a] and Individual Onsite Systems
Capital Costs						
Sanitary Sewer Collection System	$140,000	$153,000	$140,000	$153,000	$233,000	--
Sewage Treatment and Disposal System	180,000	198,000	36,000	40,000	180,000	$154,000
Roadway System	90,000	99,000	90,000	99,000	218,000	218,000
Capital Cost Subtotal	$410,000	$450,000	$266,000	$292,000	$631,000	$372,000
Capital Cost per Housing Unit	$ 14,600	$ 13,600	$ 9,500	$ 8,800	$22,500	$13,300
Annual Costs						
Operation and Maintenance	$ 13,000	$ 13,000	$ 22,000	$ 26,000	$13,000	$3,000
Annual Cost of Capital	35,700	39,100	23,100	25,400	54,900	32,400
Total Annual Cost[e]	$ 48,700	$ 52,100	$ 45,100	$ 51,400	$67,900	$35,400
Total Annual Cost per Dwelling Unit	$ 1,740	$ 1,580	$ 1,610	$ 1,560	$2,420	$1,260

[a] *Estimated number of lots allowable using 3.0-acre lot sizes and space for public facilities such as roads and utilities.*

[b] *Estimated number of lots allowed if 20 percent increase in number of units is allowed for clustering.*

[c] *Assumes use of sewage pretreatment system discharging to a land-disposal field. System would be designed for eventual abandonment and connection made to a public sewerage system in the future.*

[d] *Community holding tank would be designed for eventual abandonment and connection made to a public sewerage system in the future.*

[e] *Capital cost annualized using a 20-year period and a 6 percent interest rate.*

Source: Welch, Hanson & Associates, Inc.; Anderson and Associates; and SEWRPC.

individual onsite systems on large lots, are presented in Table 140. It should be noted in this respect that the capital cost attendant to the provision of roadways and sewage disposal for a typical 100-acre parcel developed at a density of three acres per dwelling unit, or 3.6 acres per lot including associated streets, served by conventional onsite sewage disposal systems, may be expected to approximate $372,000, or about $13,300 for each of the 28 residential lots in such a development. Comparable capital costs for roadways, and sewage collection and disposal costs for a cluster development at a density of 0.5 acre per residential lot, or 0.6 acres per lot including associated streets, served by a community sewage collection, treatment, and disposal system, may be expected to approximate $410,000, or about $14,600 for each of the 28 residential lots such a development. If, however, a 20 percent density bonus were allowed, and 33 lots would be permitted in the cluster development, the capital costs attendant to such lots served with a community sewage collection, treatment, and disposal system would approximate $450,000, or about $13,600 per lot, a figure which may be considered equal to the per lot cost for development with conventional onsite sewage disposal systems.

As shown in Table 140, the total annual costs, including capital and operation and maintenance costs, for the cluster development may be expected to be somewhat higher than the total annual costs for a typical residential development at a density of three acres per dwelling using conventional onsite sewage disposal systems. The positive benefits which can accrue to a community as a result of utilizing the cluster development concept, however, may outweigh any modest annual cost disadvantage. Utilization of the cluster concept will

significantly increase the amount of open space related to the new residential development and thereby help to maintain the rural appearance of the landscape. The open space could remain in agricultural use through the application of such innovative concepts as community supported agriculture, described earlier in this chapter. In addition, incorporating a community sewage collection, treatment, and disposal system into the cluster concept may result in positive impacts on surface water and groundwater.

Lot Averaging Provisions: Rural area zoning can also permit lot-averaging as a means of preserving rural areas. Maintaining an overall density of five acres per dwelling unit, the lot sizes would be permitted to vary as long as the lot area that is taken from one lot is transferred to one or more other lots, so that a minimum average lot size is maintained within the development site concerned. Although no common open space is created, the advantage of lot averaging is flexibility of site design and the ability to concentrate some of the permitted dwellings on smaller lots in certain areas of the development parcel while the remaining permitted dwellings would be located on a few larger lots. Features of the rural landscape or environmentally sensitive areas can be preserved, albeit on private lots. For example, in a zoning district permitting lot-averaging, the minimum lot size could be two acres, as long as the average lot size is five acres. Thus, some seven- or eight-acre lots would be required to offset the two-acre lots.

Deed Restrictions: Within the context of clustered residential development, zoning ordinances must also establish the legal means to protect the agricultural and other open space lands that are designated for preservation. This can be accomplished in a variety of ways. Two common methods are deed restrictions and conservation easements.

Deed restrictions are restrictions against development placed in the deed of the property. Notes identifying the deed restrictions should also be placed in the plat boundary map. The deed restrictions would preclude all forms of urban development; once established, they would be attached to the land, regardless of sale, and would not held by the landowner or an outside party.

Conservation easements are a means of preserving rural character through ownership of selected property rights. Such easements allow governments or other concerned organizations to hold specific rights to a parcel of land without actually owning it; this can assure long-term preservation of historic places, natural features, and open space. A scenic easement on a particular parcel, for example, would typically require the owner to preserve open space, vistas provided by the site, or the natural beauty of the site, and would probably preclude development on all or a portion of the site concerned. Conservation easements can also be held by multiple parties with respect to one site; one party may hold an easement to protect a particular aspect of the site, while another party may hold an easement to protect another aspect of the site. In this regard, the more conservation easements held on a particular site, the more protected that site will be from development pressures.

It should be noted that the simplest method of ownership for preserving open space lands is fee-title donation to, or purchase by, a unit of government or private organization. By execution of deed, the owner gives his or her land or a specified portion of it for conservation purposes to a qualified nonprofit organization or governmental agency. The donation can take several forms which vary as to tax implications for, and rights for use by, the original owner.

Transfer of Development Rights: As previously noted, the transfer of development rights may be an appropriate means for ensuring the preservation of open space lands in certain situations. Under this technique, the right to develop a specified number of dwelling units under existing zoning may be transferred from one parcel, which would be maintained in open space use, to a different parcel, where the number of dwelling units permitted would be correspondingly increased. The dwelling units accommodated on a second parcel, including the units allowed under basic zoning and the additional units allowed under the TDR provisions, could be developed in the form of a conventional subdivision or as a clustered design, as previously described.

The zoning ordinance must establish procedures by which the TDR technique will be administered, including the formula for calculating the number of residential dwelling units which may be transferred from the "sending" area to the "receiving" area. The zoning district map must identify the sending and receiving areas, or at least identify the districts within which development rights can be transferred from one parcel to another.